Court No. 3

Criminal Misc. Application No. 268 of 2003

Vikas Arora .....Petitioner/Applicant

Versus

Judge, Family Court,
Haridwar and others ..... Respondents

Hon'ble Irshad Hussain, J.

Heard Sri Sudhir Singh learned counsel for the petitioner and perused the petition. This is a petition under Section 482 of the Code of Criminal Procedure for setting aside order dated 2.9.2002 passed by the Principal Judge, Family Court, Haridwar.

Petition under Section 125 of the court preferred by the respondent no. 2 and 3 was decided ex-parte on 2.9.2002. The petitioner moved application for setting aside the ex-parte judgment and order, but the same was dismissed in default of the petitioner. Thereafter the petitioner moved application for restoration. When this application came up for disposal the learned Principal Judge by order dated 2.9.2003 laid down a condition that the application shall not be heard and decided unless and until the sum of Rs. 10,000/- is paid as maintenance to the respondent no. 2 and 3.

In view of the above application for maintenance having been allowed ex-party per order dated 2.9.2002 the petitioner moved application for setting aside the ex-parte order and in the application it has been submitted that he is a handicapped person and he is not in a position to pay the huge sum of Rs. 10,000/-.

Considering the facts of the case, it may be directed that the petitioner deposit a sum of Rs. 5,000/- which shall be paid to the respondent no. 2 and 3 and shall be adjusted against maintenance allowance that may be awarded to them finally if the ex-party judgment and order is set aside and the petition under section 125 of the code is decided on merit.

In view of above, the petition is allowed in above terms and order dated 2.9.2003 of the learned Principal Judge is set aside. The petitioner shall comply with this the above direction in two weeks and thereafter the application for restoration pending before the Family Court shall be disposed of according to law.

Dated: 4.11.2003 Sd/-
Rawat